

-CITE-

42 USC Sec. 1981

01/16/96

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 21 - CIVIL RIGHTS
SUBCHAPTER I - GENERALLY

-HEAD-

Sec. 1981. Equal rights under the law

-STATUTE-

(a) Statement of equal rights

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

(b) "Make and enforce contracts" defined

For purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) Protection against impairment

The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.

-SOURCE-

(R.S. Sec. 1977; Pub. L. 102-166, title I, Sec. 101, Nov. 21, 1991, 105 Stat. 1071.)

-COD-

CODIFICATION

R.S. Sec. 1977 derived from act May 31, 1870, ch. 114, Sec. 16, 16 Stat. 144.

Section was formerly classified to section 41 of Title 8, Aliens and Nationality.

-MISC3-

AMENDMENTS

1991 - Pub. L. 102-166 designated existing provisions as subsec.



(a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1991 AMENDMENT

Section 402 of Pub. L. 102-166 provided that:

"(a) In General. - Except as otherwise specifically provided, this Act (see Short Title of 1991 Amendment note below) and the amendments made by this Act shall take effect upon enactment (Nov. 21, 1991).

"(b) Certain Disparate Impact Cases. - Notwithstanding any other provision of this Act, nothing in this Act shall apply to any disparate impact case for which a complaint was filed before March 1, 1975, and for which an initial decision was rendered after October 30, 1983."

SHORT TITLE OF 1991 AMENDMENT

Section 1 of Pub. L. 102-166 provided that: "This Act (enacting section 1981a of this title and sections 601 and 1201 to 1224 of Title 2, The Congress, amending this section and sections 1988, 2000e, 2000e-1, 2000e-2, 2000e-4, 2000e-5, 2000e-16, 12111, 12112, and 12209 of this title, and section 626 of Title 29, Labor, and enacting provisions set out as notes under this section and sections 2000e and 2000e-4 of this title, and section 1a-5 of Title 16, Conservation) may be cited as the 'Civil Rights Act of 1991'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-559, which amended section 1988 of this title, is known as "The Civil Rights Attorney's Fees Awards Act of 1976", see note set out under section 1988 of this title.

SEVERABILITY

Section 401 of Pub. L. 102-166 provided that: "If any provision of this Act (see Short Title of 1991 Amendment note above), or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected."

CONGRESSIONAL FINDINGS

Section 2 of Pub. L. 102-166 provided that: "The Congress finds that -

"(1) additional remedies under Federal law are needed to deter unlawful harassment and intentional discrimination in the workplace;

"(2) the decision of the Supreme Court in Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989) has weakened the scope and effectiveness of Federal civil rights protections; and

"(3) legislation is necessary to provide additional protections against unlawful discrimination in employment."

PURPOSES OF 1991 AMENDMENT

Section 3 of Pub. L. 102-166 provided that: "The purposes of this Act (see Short Title of 1991 Amendment note above) are -

- "(1) to provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace;
- "(2) to codify the concepts of 'business necessity' and 'job related' enunciated by the Supreme Court in *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), and in the other Supreme Court decisions prior to *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642 (1989);
- "(3) to confirm statutory authority and provide statutory guidelines for the adjudication of disparate impact suits under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); and
- "(4) to respond to recent decisions of the Supreme Court by expanding the scope of relevant civil rights statutes in order to provide adequate protection to victims of discrimination."

LEGISLATIVE HISTORY FOR 1991 AMENDMENT

Section 105(b) of Pub. L. 102-166 provided that: "No statements other than the interpretive memorandum appearing at Vol. 137 Congressional Record S 15276 (daily ed. Oct. 25, 1991) shall be considered legislative history of, or relied upon in any way as legislative history in construing or applying, any provision of this Act (see Short Title of 1991 Amendment note above) that relates to Wards Cove - Business necessity/cumulation/alternative business practice."

CONSTRUCTION OF 1991 AMENDMENT

Section 116 of title I of Pub. L. 102-166 provided that: "Nothing in the amendments made by this title (enacting section 1981a of this title and amending this section, sections 1988, 2000e, 2000e-1, 2000e-2, 2000e-4, 2000e-5, 2000e-16, 12111, and 12112 of this title, and section 626 of Title 29, Labor) shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements, that are in accordance with the law."

ALTERNATIVE MEANS OF DISPUTE RESOLUTION

Section 118 of title I of Pub. L. 102-166 provided that: "Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts or provisions of Federal law amended by this title (enacting section 1981a of this title and amending this section, sections 1988, 2000e, 2000e-1, 2000e-2, 2000e-4, 2000e-5, 2000e-16, 12111, and 12112 of this title, and section 626 of Title

29, Labor)."

-SECREF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1981a, 1988 of this title; title 2 sections 1202, 1311.